COMMONWEALTH OF MASSACHUSETTS

BEFORE THE

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Ratepayer Parity Trust Fund Disbursement	)	D.T.E. 01-45

Western Massachusetts Electric Company's Comments on the Department of Telecommunications and Energy's Investigation Regarding Rules for Disbursement of Ratepayer Trust Fund Moneys

Western Massachusetts Electric Company ("WMECO") appreciates the opportunity to comment to the Department of Telecommunications and Energy ("Department") on the promulgation of rules for the disbursement of moneys from the Ratepayer Trust Fund ("Fund") established by G.L. c. 10, § 62. As the Department stated in its Order opening this investigation, Section 62 provides that the Fund is the repository of personal and corporate tax revenues attributable to the sale of the assets of electric distribution companies, and all penalties and fines collected under the provision of G.L. c. 164, §§ 1A to 1H, inclusive, and any income derived from the investment of those accounts.

In previous comments to the Department pertaining to WMECO mitigation efforts submitted January 19, 2001, WMECO addressed the use of the Fund. In those comments, WMECO stated that the Legislature created the Fund anticipating the possibility that high prices for electricity might be a problem for a period of time during the restructuring transition period and that a further mitigation measure, under the control of the Commonwealth, rather than the

restructured utilities, was warranted. WMECO further stated that the extraordinary and painful electricity rate increases that have incurred, despite the best efforts of the Department, distribution companies and other parties, called for the use of the Fund to provide a measure of relief for customers.

Moneys in the Fund have come from the personal and corporate tax revenues attributable to the sale of assets and any income derived from the investment of those accounts. Over the past three years, WMECO has sold its generation assets. In 1999, WMECO sold 290 MW of non-nuclear generating assets to Consolidated Edison Energy Massachusetts, Inc. This sale was reflected on WMECO's 1999 tax return. In 2000, 272.1 MW of hydroelectric generating assets were sold to Northeast Generation Company and in 2001, WMECO sold its interests in the Millstone nuclear generating units to Dominion Nuclear Connecticut, Inc. These sales will be reflected in WMECO's 2000 and 2001 tax returns, respectively. When these transactions are recognized by the Department of Revenue, the appropriate moneys can then be transferred to the Fund.

The proceeds from each of these asset sales were used by WMECO to mitigate transition costs and reduce the transition charge. It makes sense to WMECO that the moneys associated with these transactions going into the Fund from the Department of Revenue should also be used to assist customers by reducing transition costs.

Given this background, WMECO will respond to the questions the Department has asked parties to address.

(1) Please propose a method, consistent with provisions of G.L. c. 164, § 1G(c)(4) and G.L. c. 10, § 62, to determine the eligibility of electric distribution companies to receive moneys held in the Fund. In proposing such a method, please address the roles and responsibilities of: (1) the Department; (2) distribution companies; (3) the Secretary of Administration and Finance; (4) the Office of the Attorney General; (5) the General Court; and (6) others.

While distribution companies have been able to provide an inflation-adjusted, 15-percent rate reduction to their customers since September 1, 1999, price increases during the last year caused by unprecedented increases in certain fuels used to produce electricity have negatively effected most, if not all, electric customers in the Commonwealth, and created a substantial hardship for WMECO. For WMECO's Standard Offer customers, for example, the price of energy, primarily due to fuel cost increases, has increased from approximately 4.5 cents per kilowatt-hour in 2000 to approximately 7.3 cents per kilowatt-hour in 2001. If that full standard offer price change had been passed on through rates without other offsets, average total prices would have increased by 28.5 percent.

As indicated above, it is WMECO's opinion that G.L. c. 164, § 1G(c)(4) is applicable to provide a measure of relief to customers during this high-price period, even though the inflation-adjusted, 15- percent rate reduction is being met. In WMECO's case, the reduction was met by lowering the transition charge to a level significantly below that previously in place, thereby postponing or delaying the recovery of transition costs until future periods. As part of its plan to accommodate the higher standard offer price, WMECO did not implement the annual legislative-approved inflation adjustment for 2001.

Therefore, should one or more of the distribution companies petition the Department, as provided by Section 1G(c)(4), the Department could certify that a distribution company like WMECO is eligible to receive moneys from the Fund for cost mitigation because of the financial hardship described above. Although the distribution companies would be receiving the moneys, the Department could, and should, mandate that the moneys be passed through or credited to customers, the group that has suffered most from the high electricity supply costs, by reducing transition costs.

All customers have been impacted by the increase in electricity costs and, therefore, WMECO believes all customers have a call on any moneys distributed from the Fund. However, a final determination of how to refund the moneys may have to wait the determination of how much money is in the Fund. However, WMECO strongly recommends consideration of a method that would credit any moneys received against the transition charge as a means of further mitigating transition costs paid by customers.

In working to mitigate customers' electricity costs pursuant to the above, distribution companies should not be penalized. General Law c. 164, § 1G(c)(4) was enacted before distribution companies had restructuring plans approved by the Department. Now, each distribution company has an approved restructuring plan, thus demonstrating each has mitigated transition costs to the maximum extent possible to date.

Finally, to the extent not discussed above, WMECO believes the roles and responsibilities of the other parties are clear. After the Department and the Secretary of Administration and Finance determine the amount in the Fund (and perhaps an estimate of what additional funds might be expected as a result of already-concluded asset divestitures), the

Department should determine the best method for providing relief to customers, with input from the Attorney General, among others. The General Court will undoubtedly want to be kept informed to ensure that the Department is proceeding in a manner consistent with the Legislature's intent.

(2) What documentation would a distribution company be required to present to substantiate the need for "extraordinary assistance" to meet the 15 percent rate reduction?

WMECO believes that the substantial increases in electricity rates, as approved by the Department, are evidence of the need for extraordinary assistance without further documentation. The Department can look to the record in these cases and no further inquiry is needed given the circumstances that pertain now.

(3) Please indicate how best to disburse funds (e.g., how to prioritize numerous requests, how to determine the allotment of funds per company, etc.).

The allotment of funds should be based on the amount that each of the distribution companies have contributed to the fund through personal and corporate tax revenues attributable to the sale of assets and any income derived from the investment of those accounts. These amounts plus any accrued interest can then be returned to that distribution company's customers. Moneys collected from all penalties and fines collected under the provision of G.L. c. 164, §§ 1A to 1H, inclusive, plus any accrued interest, should be allocated on the same basis as tax revenues. Since all companies have met the inflation-adjusted, 15- percent rate reduction, this method eliminates the need to prioritize requests from the Fund. Under this approach, distribution company customers will be receiving the amount that was put in the Fund

on their behalf as reported on their respective distribution company's tax returns. This will allow for an equitable distribution of the Fund. However, distribution companies should not be allowed to access funds until the Department of Revenue confirms that it has transferred moneys received from that distribution company's tax return into the Fund. This will limit the amounts available in any given year.

(4) Pursuant to the Act, after February 2005 standard offer rates will no longer be available. Should be Fund be maintained until February 2005, or can it be terminated sooner since all distribution companies have met the 15 percent rate reduction required by the Act without necessitating disbursement of moneys from the Fund?

Since the Fund was established to be in place for the Standard Offer service period, it can be left in place until February 28, 2005. However, there is no statutory bar to allotting any or all moneys in the Fund as soon as possible than that if circumstances dictate. As set forth above, WMECO believes that the unprecedented price increases experienced recently supports disbursement of substantial sums from the Fund as soon as is practicable.

(5) Upon termination of the Fund, what should happen to the moneys remaining in the Fund?

The Department should endeavor to distribute all moneys in the Fund prior to the February 28, 2005 termination date. Since the General Court decided to include the Fund as part of the Restructuring Act, it seems apparent that its intention was to benefit utility customers. This can be accomplished by using the money to mitigate transition costs.

(6) Please provide a summary of the amounts deposited in the Fund. Kindly breakdown the information by moneys deposited as a result of: (a) revenues attributable to the sale of assets; (b) penalties and fines; and income derived from the investment of those amounts.

WMECO does not deposit any funds into the Fund nor is it aware of the amount of funds that the Department of Revenue has put into the fund on WMECO's behalf. Additionally, WMECO is not aware of any penalties or fines assessed against it nor the amount of any income derived from the investment of fund amounts. However, on April 11, 2001, WMECO received a letter from Mr. Patrick Hager, Supervisor at the Department of Revenue, requesting verification of WMECO's personal and corporate tax revenues attributable to the sale of divested electric utility assets. On May 9, 2001, WMECO responded to that request stating WMECO's 1999 taxable gain related to Massachusetts deregulation legislation totaled $28,562,877. Attachment A provides the correspondence with the Department of Revenue including the supporting schedules.

Based on the above, WMECO does not know how much money is in the Fund. The Department of Revenue, possibly in conjunction with the Secretary of Administration and Finance, would be better able to determine Fund balances. Once Fund balances are determined, the Department should endeavor to establish the processes and procedures necessary to begin providing customers the benefits of distributing the Fund to mitigate costs.

In conclusion, WMECO has gone to great lengths to keep to keep customers rates as low as possible during this period of dramatic increases in electric costs by foregoing legislatively approved increases as well as delaying the recovery of stranded costs approved for recovery today. WMECO believes that the Department has the ability to use the Fund to

provide a measure of relief for customers. The prompt promulgation of rules for the disbursement of moneys from the Fund is in the best interest of all customers.